



NO. 97-01769-F

CHARLES EDWARD HERION,	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	
vs.	§	DALLAS COUNTY, TEXAS
	§	
NORFOLK SOUTHERN RAILWAY	§	
COMPANY, individually	§	
and as a subsidiary of	§	
NORFOLK SOUTHERN CORPORATION,	§	
and as successor-in-interest	§	
to SOUTHERN	§	
RAILWAY COMPANY,	§	
	§	
Defendants.	§	116TH JUDICIAL DISTRICT

**OBJECTIONS OF NORFOLK SOUTHERN RAILWAY COMPANY
TO PLAINTIFF'S SECOND SET OF INTERROGATORIES**

COMES NOW, Defendant, Norfolk Southern Railway Company (NSRC), individually and as a subsidiary of NORFOLK SOUTHERN CORPORATION, and as successor-in-interest to SOUTHERN RAILWAY COMPANY, Defendant in the above-referenced matter, and files this its Objections to Plaintiff's Second Set of Interrogatories and would show the Court the following:

PRELIMINARY STATEMENT AND GENERAL OBJECTION

The following responses are being provided after diligent investigation and inquiry by Defendant. However, because many of the events relating to the matters inquired about by Plaintiff's requests occurred more than forty (40) years ago, the availability of persons involved and the existence of applicable documents has been limited.

As a result of the foregoing factors, many of the individuals who might have had personal

knowledge of the matters to which Plaintiff's requests relate are deceased, retired, or are otherwise unavailable to NSRC, and investigations to date indicate that at least some documents which relate to matters inquired about by these requests may have been destroyed in keeping with normal corporate record retention policy. Accordingly, some responses are possibly incomplete. NSRC's investigation is continuing and should additional information surface, supplemental responses will be submitted. The following is a part of and is incorporated by reference in every response provided hereinafter:

This answer is accurate as of the date of the Answers and Objections of Defendant Norfolk Southern Railway Company to Plaintiff's First Set of Interrogatories. Norfolk Southern objects to answering to this interrogatory in regard to any period of time other than the period during which it employed Plaintiff and further objects to providing information about geographic locations and operating units within its system other than those at which and for whom Plaintiff worked. The bases for such objections are that any answers would be irrelevant to the subject matter of the pending litigation, would not be reasonably calculated to lead to the discovery of admissible evidence, and would be burdensome and oppressive.

Furthermore, NSRC objects to the instructions and definitions supplied by Plaintiff with regard to these interrogatories, on the basis that the definitions are overbroad, vague and often inconsistent with the normal usage and meaning of such words. The instructions are overbroad, burdensome and constitute an unreasonable expansion of the interrogatories themselves. NSRC therefore gives notice that it does not consider itself bound by the instructions and definitions propounded by Plaintiff, and instead has answered these interrogatories in a manner consistent with the normal understanding of the language used in the interrogatory and to the extent necessary to fairly and fully answer the interrogatory.

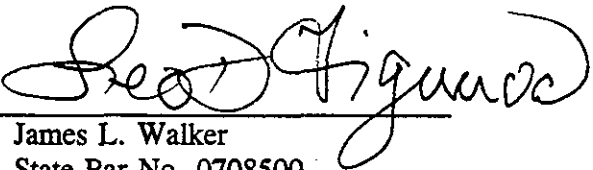
The answers that follow, unless otherwise apparent from the context, are limited to the specific period (approximately 1939 to approximately 1957), the period that NSRC allegedly

employed Plaintiff as a laborer and machinist; and to the area in and around Spencer, North Carolina, the place where Plaintiff allegedly worked for NSRC.

Respectfully submitted,

JACKSON & WALKER, L.L.P.
112 East Pecan Street, Suite 2100
San Antonio, Texas 78205
(210) 978-7700
Telecopier - (210) 978-7796

By:



James L. Walker
State Bar No. 0708500

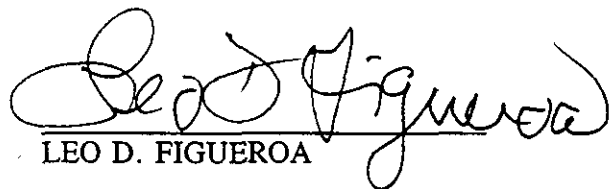
Leo D. Figueroa
State Bar No. 06984100

ATTORNEYS FOR DEFENDANT, NORFOLK
SOUTHERN RAILWAY COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was served by certified mail, return receipt requested, to Mr. Peter Kraus/Ms. Judy Bradshaw, Baron & Budd, The Centrum, Suite 1100, 3102 Oak Lawn Avenue, Dallas, Texas 75219 on this the 13th day of June, 1997.

All defense counsel may request a copy of this document.


LEO D. FIGUEROA

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INTERROGATORIES

INTERROGATORY NO. 1: At any time prior to 1980 did Defendant or anyone at the direction of Defendant conduct an investigation, survey or other process to identify the primary emission sources of airborne asbestos fibers and/or to assess and/or sample for the detection of, the quantity of, or threshold limit value of airborne asbestos fibers in relation to Defendant's railroad? If so, please identify with particularity the entity and/or persons conducting such investigation(s), survey(s) or test(s), the dates conducted and the results.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

INTERROGATORY NO. 2: Did Defendant ever arrange for any labor agency, insurance company, government agency, inspectors or anyone from your company to go into any of Defendant's railway car(s) and/or engine(s) and/or locomotive(s) and/or roundhouses and/or shops to take dust level counts related to asbestos dust? If so, identify with particularity the party(is) conducting such procedure(s), the dates conducted, the purpose of such procedure(s), and all results of such procedure(s).

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;

5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

INTERROGATORY NO. 3: Did Defendant obtain facts, knowledge or information from any industry, insurance company, governmental agency, union, and/or any other entity regarding the potential health effects and/or health hazards created for persons exposed to airborne asbestos dust? If so, please list all sources of such information and the dates received.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

INTERROGATORY NO. 4: List each person who has acted in a medical advisory capacity to your company at any time during the past 40 years, including, but not limited to, physicians (including those physicians who would have been responsible for conducting physicals, evaluations or screenings of Defendant's employees) and industrial hygienists, and the current address, telephone number and job title of each of those individuals who has had or may have had any knowledge regarding the hazards of airborne asbestos dust.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
8. the request seeks information which is private, confidential and/or proprietary.

INTERROGATORY NO. 5: Does Defendant have in its possession any books, pamphlets, memoranda, or written materials of any kind or character that would indicate that asbestos fibers, when inhaled, can be hazardous to the health of human beings? If so, state:

- A. The name of each such publication;
- B. The date of publication and the names of the author and publisher (if any);
- C. The date received by Defendant;
- D. The name, job title, and address of each person who currently has possession of each publication and its present location.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;

6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
7. the request infringes on the attorney work product privilege;
8. the request infringes on the investigative/party communication privilege;
9. the request infringes on the attorney-client privilege;
10. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
11. the request seeks information which is private, confidential and/or proprietary.

INTERROGATORY NO. 6: Has Defendant at any time been a member of any trade organization or association that published or disseminated any documents or information relating to the hazards of airborne asbestos? If so, state:

- A. The name and address of each such association or organization;
- B. The dates during which Defendant member;
- C. The names and dates of any publications, minutes, or reports published, written, or disseminated by any of the named associations or organizations;
- D. Whether any of those publications are still in your possession, and if so:
 1. A description of the publications, including the date;
 2. The current location of such publications;
 3. The custodian of such publications;
 4. The method or manner in which such publications are maintained.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

INTERROGATORY NO. 7: As to the disease asbestosis, state:

- A. The date on which Defendant first learned that such disease was caused by inhalation of asbestos fibers;
- B. How Defendant became aware of the existence of the disease;
- C. Who within the company first discovered, recognized or understood the adverse consequences or effects of the disease;
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- E. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in any written form;
- F. Who is the custodian of such information;
- G. The date on which you first received knowledge or information that asbestosis was caused by inhalation of asbestos fibers alone or in conjunction with second hand smoke.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

- 1. the request is overly broad;
- 2. the request is vague;
- 3. the request is ambiguous;
- 4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
- 5. the request infringes on the attorney work product privilege;
- 6. the request infringes on the investigative/party communication privilege;
- 7. the request infringes on the attorney-client privilege;
- 8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
- 9. the request seeks information which is private, confidential and/or proprietary.

INTERROGATORY NO. 8: As to the disease lung cancer, state:

- A. The date on which Defendant first learned that such disease was caused by inhalation of asbestos fibers;
- B. How Defendant or its subsidiary or predecessor became aware of the disease and its relationship to asbestos exposure;
- C. Who within the company or its subsidiary or predecessor first developed or recognized the adverse consequences or effects of asbestos exposure;
- D. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- E. Whether any such information is still maintained by Defendants or its subsidiaries

- or predecessors in a written form;
- F. Who is the custodian of such information;
- G. the date on which you first received knowledge or information that lung cancer was caused by inhalation of asbestos dust and fibers.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
5. the request infringes on the attorney work product privilege;
6. the request infringes on the investigative/party communication privilege;
7. the request infringes on the attorney-client privilege;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 9: As to the disease mesothelioma, state:

- A. The date on which Defendant first learned such disease was caused by inhalation of asbestos fibers;
- B. The date on which Defendant first suspected that mesothelioma was caused by inhalation of asbestos dust and fibers;
- C. How Defendant or its subsidiary or predecessor became aware of the disease and that it was caused by exposure to asbestos;
- D. Who within the company or its subsidiary or predecessor first discovered or recognized the adverse consequences or effects of asbestos exposure;
- E. What information was disseminated within Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- F. Whether any such information is still maintained by Defendants or its subsidiary or predecessor in a written form;
- G. Who is the custodian of such information;
- H. Whether Defendant agrees that there is no known medical cure for mesothelioma.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
5. the request infringes on the attorney work product privilege;
6. the request infringes on the investigative/party communication privilege;
7. the request infringes on the attorney-client privilege;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 10: As to gastro-intestinal cancer, laryngeal cancer, pharyngeal cancer and/or lymphatic cancer, state:

- A. The type of cancer and the date on which Defendant first learned that such diseases were caused by inhalation of asbestos fibers by humans;
- B. What cancers has the Defendant become aware can be caused by exposure to asbestos fibers;
- C. The date on which Defendant first suspected other cancers were caused by asbestos inhalation;
- D. Who within the company or its subsidiary or predecessor first discovered the adverse consequences or effects of asbestos exposure;
- E. What information was disseminated with Defendant's company or its subsidiary or predecessor regarding such adverse consequences or effects;
- F. Whether any such information is still maintained by Defendant or its subsidiary or predecessor in a written form;
- G. Who is the custodian of such information.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
5. the request infringes on the attorney work product privilege;
6. the request infringes on the investigative/party communication privilege;
7. the request infringes on the attorney-client privilege;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 11: Did Defendant maintain written minutes of corporate meetings, either board of directors, departmental, or otherwise, which reflect discussions pertaining to any subject matter related to asbestos, asbestos health hazards or asbestos products? If so, for each such set of minutes, state:

- A. The dates of each such meeting;
- B. The general subject matter discussed at each meeting;
- C. Who was in attendance at each meeting;
- D. Where and by whom the written minutes are presently maintained;
- E. By whom the minutes were taken and put into final format;
- F. Whether the minutes were abstracted and reports disseminated to other individuals, and if so, the names and job titles of those individuals.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
5. the request infringes on the attorney work product privilege;

6. the request infringes on the investigative/party communication privilege;
7. the request infringes on the attorney-client privilege;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 12: Does Defendant intend to call a company representative as a witness at the trial of this case? If so, list:

- A. The name, address, and job title of each company representative who may be called;
- B. A summary of the testimony expected to be given by each such witness;
- C. list any and all previous times that the named witnesses have either given deposition or trial testimony in an asbestos-related case, including the jurisdiction, style of the case, case number, date of testimony, and the name of the attorney taking the deposition for the Plaintiff(s) in that case.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
5. the request infringes on the attorney work product privilege;
6. the request infringes on the investigative/party communication privilege;
7. the request infringes on the attorney-client privilege;
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
9. the request seeks information which is private, confidential and/or proprietary.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 13: Does Defendant have, or has it ever had, a Medical Department or Medical Section? If so, state:

- A. The year such Medical Department or Section was established;
- B. Whether or not such Medical Department or Section has operated continuously since being established;
- C. The name of each director, chief, or head of your Medical Department or Section year by year, beginning with the first year of its existence and the last known address and phone number of each;
- D. State the duties and responsibilities of such Medical Department or Section.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

- 1. the request is overly broad;
- 2. the request is unlimited in terms of time;
- 3. the request is unlimited in terms of geographic scope;
- 4. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
- 5. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
- 6. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 14: Please state whether written warnings were replaced at any locations adjacent to or near asbestos in place on Defendant's railroad(s), at any time from 1930 to the present. If so, please describe with specificity such signs, including size, color, wording, etc. Additionally, please state the number of such signs that were installed and indicate the specific location of each such sign and the dates such sign was at that location.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

- 1. the request is overly broad;
- 2. the request is unlimited in terms of geographic scope;
- 3. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
- 4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,

5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 15: Does Defendant have, or has it ever had, a Safety Department? If so, state:

- A. The year such Safety Department was established;
- B. Whether or not such Safety Department has operated continuously since being established;
- C. The name of each director, chief, or head of your Safety Department year by year, beginning with the first year you had a Safety Director or Safety Department, and the last known address and phone number of each;
- D. State the duties and responsibilities of such Safety Department.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 16: Please state whether a medical monitoring program, medical examination program or other medical surveillance was provided to your employees and specifically to Plaintiff. If so, please indicate what records of such program, examination or surveillance concerning Plaintiff exist at this time, including but not limited to reports, x-rays and medical notes.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
4. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
5. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 17: Please state whether Defendant has at any time provided safety equipment to the Plaintiff and/or the railroad workers of Defendant present at any time during Plaintiff's employment by Defendant for protection against the inhalation of airborne asbestos dust, including but not limited to masks, respirators, other breathing devices, protective clothing, protective gloves, etc. For each such item of equipment, please indicate when such item was first provided, under what circumstances, and the name, address and telephone number of the person most knowledgeable concerning such provision.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 18: Please state whether Defendant ever agreed by contract, agreement, negotiation, collective bargaining or otherwise, to provide masks to Plaintiff and other crew members and/or employees of Defendant working with or around asbestos products. If so, please state verbatim the specific agreement or contract and/or other document by which Defendant agreed to provide such masks. Include the date the agreement was entered into, the period of time covered by the agreement and the parties to the agreement.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague; and,
3. the request is ambiguous.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 19: Please state the precise State and/or Federal regulations, laws, statutes, or other authority pertaining to industrial hygiene or worker safety and health that governed, regulated controlled and/or were applicable to airborne asbestos exposure in your operations and/or in relation to Defendant's railroad.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 20: Please describe each and every occasion during the past thirty years when any regulatory agency or other governing body inspected Defendant's railroad to ascertain whether health and safety regulations were being followed or adhered to, including the date of such inspection and/or meeting, the results, and whether a written report was produced.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
8. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

OBJECTION. NSRC objects to Interrogatory No. 20 for the reason that it requests information about a time period subsequent to Plaintiff's alleged employment. Without waiver NSRC states, it is unknown whether any such inspections may have been made during the time of Plaintiff's alleged employment at the location of his alleged employment. To NSRC's knowledge there are no records of any such inspections which gave rise to negative reports.

INTERROGATORY NO. 21: Please state whether any asbestos-containing products in place or in use on Defendant's railroad, has been removed or abated at any time from 1965 to the present. If so, please answer the following:

- A. list each and every abatement company or other contractor involved with the removal of asbestos, including address and telephone number, dates of such removal, and whether a contract for such removal exists;
- B. Indicate the total amount in dollars spent by Defendant to abate or remove asbestos from the railroads.
- C. State whether any "removal plan" or organized written criteria or other document related to asbestos removal on the railroad(s) was ever prepared by Defendant;
- D. State whether corporate documents discussing or relating generally to the removal of asbestos are in existence and, if so, where they are maintained;

- E. State precise dates and locations when and where such removal or abatement took place for each railroad.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of time;
3. the request is unlimited in terms of geographic scope;
4. the request is vague;
5. the request is ambiguous;
6. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
7. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request;
8. the request infringes on the attorney work product privilege;
9. the request infringes on the investigative/party communication privilege;
10. the request infringes on the attorney-client privilege;
11. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure; and,
12. the request seeks information which is private, confidential and/or proprietary.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 22: As to either the threshold limit values or maximum allowable concentrations of both asbestos dust and total dust provided by the American conference of Governmental Industrial Hygienists, state:

- A. The year in which Defendant was first advised of such limits or concentrations;
- B. The name of the employee or official of the company receiving such advice;
- C. How Defendant received notice of such limits or concentrations.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is vague;
3. the request is ambiguous;
4. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
5. the overly broad nature of the request is such that it would be unduly

- burdensome and prohibitively expensive to gather the information necessary to respond to this request;
6. the request infringes on the attorney work product privilege;
 7. the request infringes on the investigative/party communication privilege;
 8. the request infringes on the attorney-client privilege; and,
 9. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 23: Please state whether and when Defendant received a copy of the Fleischer/Drinker report published in 1945/1946.

ANSWER: Defendant objects to the form and substance of this request on the ground the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

INTERROGATORY NO. 24: Please describe all actions taken by Defendant to comply with the Boiler Inspection Act, previously 45 U.S.C. §23 during the past thirty-five (35) years, now designated at 49 U.S.C. §20701 et seq.

ANSWER: Defendant objects to the form and substance of this request on the following grounds:

1. the request is overly broad;
2. the request is unlimited in terms of geographic scope;
3. the request is vague;
4. the request is ambiguous;
5. the request seeks information which is not relevant and which is not reasonably calculated to lead to the discovery of admissible evidence;
6. the overly broad nature of the request is such that it would be unduly burdensome and prohibitively expensive to gather the information necessary to respond to this request; and,
7. the request exceeds the scope of discovery permitted by Rule 166b of the Texas Rules of Civil Procedure.

Defendant further objects to this interrogatory on the grounds that the number of interrogatories submitted exceed the number permitted by Rule 168.

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